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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,561	11/08/2001	Hajime Kato	1068-DIV-98	8264

22469 7590 11/28/2003

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EXAMINER

PRICE, ELVIS O

ART UNIT PAPER NUMBER

1621

DATE MAILED: 11/28/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/010,561

Applicant(s)

KATO ET AL.

Examiner

Elvis O. Price

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 22-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☒ Certified copies of the priority documents have been received in Application No. 09/113,587.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6. 6) ☐ Other: \_\_\_\_

### **DETAILED ACTION**

Claims 22-26 are pending in the application.

#### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 09113587, filed on 7/10/1998.

Applicant's claim for domestic priority under 35 U.S.C. 120 is acknowledged.

#### ***Information Disclosure Statement***

The information disclosure statement(s), of Paper No. 6, complies with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609. It has been placed in the application file, and the information referred to therein has been considered as to the merits.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Pies et al. {US Pat. 5,466,881}.

Pies et al. disclose a method for isomerizing halogenated aromatics comprising contacting a catalyst composition comprising a zeolite (see Examples and Tables 1 and 2). The particle size of the secondary zeolite articles and dissolved oxygen content would be realized from the Pies et al. disclosure since Pies et al. utilize ZSM-zeolites of

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the pentasil type and use technical grade halogenated aromatics or halogenated aromatics which have been subjected to fractional distillation and/or fractional crystallization (see Col. 2, lines 32-39 and Col. 3, lines 13-21).

Claims 22-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Eichler et al. {US Pat. 4,935,561}.

Eichler et al. disclose a method for isomerizing halogenated aromatics comprising contacting a catalyst composition comprising a zeolite (see Examples and Tables 1-6). The particle size of the secondary zeolite articles and dissolved oxygen content would be realized from the Eichler et al. disclosure since Eichler et al. utilize ZSM-zeolites of the pentasil type and use commercially available halogenated aromatics and/or recycled halogenated aromatics which have been subjected to distillation, crystallization, or selective adsorption (see Col. 3, lines 3-5 and Col. 5, lines 33-35).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elvis O. Price whose telephone number is 703 605-1204. The examiner can normally be reached on 8:30 am to 5:00 pm; Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann R. Richter can be reached on 703 308-4532. The fax phone number for the organization where this application or proceeding is assigned is 703 308-4556 for regular communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1235.

A handwritten signature in black ink, appearing to read "Elvis O. Price". The signature is stylized with a large, looped "E" and a cursive "Price".

Elvis O. Price

November 25, 2003